

**HIGH COURT OF CHHATTISGARH, BILASPUR****W.P.(S) No.4587 of 2007****PETITIONER**

Nandgopal Choubey, aged about 41 years, S/o. Late Chandrika Choubey, R/o Indra Nagar, Bada Bazar, Chirmiri, Distt. Koriya (C.G.)

Versus**RESPONDENTS**

1. The State of Chhattisgarh, through Secretary, Ministry of Revenue, D.K.S. Bhawan, Raipur (C.G.)
2. The Collector, Koriya, Baikunthpur (C.G.)
3. Tahsildar, Manendragarh, Distt. Koriya (C.G.)

**WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA****Appearance:**

Shri Parag Kotecha, counsel for the petitioner.

Shri A.S. Kachhawaha, Govt. Advocate for the State on advance copy

**ORAL ORDER
(08.08.2007)****SUNIL KUMAR SINHA, J.**

Heard on admission.

The challenge is made to the order of transfer dated 20.7.2007 (Annexure-P/3), by which the petitioner, who is working on the post of Assistant Grade-III in Tahsil Office Manendragarh, has been transferred from Manendragarh to Khadgaon.

Learned counsel for the petitioner submits that the transfer order has been passed in violation of policy dated 13th June, 2007. According to him, the petitioner has not completed 3 years at Manendragarh, therefore, he should not have been transferred from that place. He also argues that according to the clause 3 of the said policy, the petitioner should not have been transferred after 15.7.2007. The over all submission of learned counsel for the petitioner is that the order is in violation of the

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transfer policy. He refers to the decisions of the Apex Court rendered in the matter of **Home Secretary, U.T. of Chandigarh and Anr. Vs. Darshjit Singh Grewal & Ors., JT 1993 (4) S.C. 387** as also **Kendriya Vidyalaya Sangathan Vs. Damodar Prasad Pandey and Ors., 2004 (6) SLR 189.**

In the matter of **Union of India Vs. S.L. Abbas, AIR 1993 SC 2444**, it has been held by the Apex Court that the guidelines issued by the Government about the transfer of Government employee do not confer upon the Government employee a legally enforceable right. It has also been held vide para 7 of the aforesaid judgment that who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it. However, it has been further held that while ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject.

Further in the matter of **State of U.P. and others vs. Gobardhan Lal, 2004 AIR SCW 2082**, it has been observed by the Apex Court that even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. The Apex Court has further observed that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

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Having heard learned counsel for the petitioner, having gone through the contents of the writ petition and having perused the contents of the policy as also the judgments referred to above, I do not find any ground of malafides or extraneous consideration or a ground of violation of any statutory Rules or Act in the matter of transfer of the petitioner warranting interference by this Court under Article 226 of the Constitution of India.

— This petition filed on the ground of violation of the policy, in ~~which~~ the matter of transfer of government servant, ~~the same~~ cannot be entertained. The same is liable to be dismissed and is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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